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10 GEOFFREY RICHARDS,
11 Chapter 7 Trustee

8 UNITED STATES BANKRUPTCY COURT

9 EASTERN DISTRICT OF CALIFORNIA
10 (Sacramento Division)

11 In re

12 Case No.: 19-24759-A-7

13 AK BUILDERS AND COATINGS, INC

14 DC No.: HSM-003

15 Debtor.

16 Date: April 20, 2021

Time: 9:00 a.m.

Place: 501 I Street

17 Sacramento, CA

Ctrm. 28, 7th Flr.

Judge: Hon. Fredrick E. Clement

18 MOTION TO ABANDON PROPERTY OF THE ESTATE; AND, SUPPORTING
19 MEMORANDUM OF POINTS AND AUTHORITIES [L.B.R. 9014-1(d)(4)]20 GEOFFREY RICHARDS, the Chapter 7 Trustee in the above-referenced
21 bankruptcy case ("Trustee"), files this motion (the "Motion") for an order abandoning the
22 estate's interests in a real property asset of the estate. The Trustee's Motion is made
23 pursuant to 11 U.S.C. § 554(a) because the asset is of inconsequential value or benefit to
24 the estate, and is otherwise burdensome to the administration of this case. In support of
25 the Motion, the Trustee respectfully represents as follows:26 Introduction and Relief Requested27 1. AK BUILDERS AND COATINGS, INC ("Debtor") commenced this case as a
28 voluntary petition under Chapter 11 of the Bankruptcy Code on July 29, 2019. The case

1 was converted to Chapter 7 on July 16, 2020. The Trustee was appointed as the
2 Chapter 7 Trustee on July 16, 2020, and has at all relevant times served in that capacity.

3 2. Jurisdiction for the filing of this Motion exists pursuant to 28 U.S.C. §§ 157
4 and 1334, 11 U.S.C. § 554(a), and the reference to this court by the District Court for the
5 Eastern District of California.

6 3. Through this Motion, the Trustee seeks an order abandoning the estate's
7 interest in real property of the estate commonly known as 10777 Walker Trail Rd.,
8 Copperopolis, CA, and 10779 Walker Trail Rd., Copperopolis, CA, in the County of
9 Calaveras, State of California; Calaveras County APNs 050-007-008-000; 050-007-009-
10 000, 050-007-010-000, 050-007-011-000, 050-008-053-000, and 050-021-018-000
11 (individually and collectively referred herein as the "Calaveras Property").

12 4. On the Debtor's Amended Schedule A/B filed in this case on October 16,
13 2020 (Docket No. 162), the Debtor listed the Calaveras Property by its two street
14 addresses, and valued the Calaveras Property at \$4,100,000.00 (\$2,050,000.00 for each
15 street address).

16 5. On the Debtor's Amended Schedule D filed in this case on October 16, 2020
17 (Docket No. 162), the Debtor listed FCI Lender as a secured creditor with a deed of trust
18 recorded against the Calaveras Property, with a balance owed of \$1,120,000.00. Based
19 on documents filed with the motion for relief from stay referenced below, FCI Lender
20 Services, Inc., appears to be or to have been the servicer for the loan secured by the
21 Calaveras Property. The Trustee understands at least one abstract of judgment has been
22 recorded against the property related to the claim of Commercial Trade, Inc., filed in
23 connection with this case (Claim 1-1). Back real property taxes and other assessments
24 may also be owed.

25 6. On March 17, 2021, a number of fractionalized deed of trust beneficiaries,
26 IRA Trust Services Company CFBO Kristan E. Evans IRA412995, et al. (collectively "Deed
27 of Trust Beneficiaries"), filed a Motion for Relief From the Automatic Stay ("Motion for
28 Relief") to exercise their rights against the Calaveras Property, including foreclosure.

1 (Docket 186) The Motion alleges that the Deed of Trust Beneficiaries are owed
2 \$1,324,727.81 in connection with their loan secured by the Calaveras Property. The
3 hearing on the Motion for Relief is set for April 20, 2021. The Trustee does not intend to
4 oppose the Motion for Relief.

5 7. The Trustee has independently investigated the value of the Calaveras
6 Property. The Trustee has consulted with a local real estate broker, and has concluded
7 that there is likely little or negative equity in the Calaveras Property if sold as a whole.
8 Although the Trustee understands that the Debtor places a much higher valuation on the
9 Calaveras Property, and is or may be pursuing a loan commitment at a higher valuation,
10 the Trustee has concluded that the as-is price likely does not exceed the debt. While it is
11 possible that selling the Calaveras Property as smaller parcels, rather than as a whole,
12 may increase its overall valuation such that there may be equity, the Trustee has not
13 investigated the practicability of that option because he is moving this case toward a
14 conclusion for the reasons set forth below.

15 8. On February 23, 2021, the Court entered an order (Docket 179) authorizing
16 the Trustee to enter into compromises of controversies with the United States Small
17 Business Administration, as set forth in the Stipulation filed therewith. (Docket 176)
18 Pursuant to the Stipulation, the Trustee is winding down administration of this estate, and
19 believes he has sufficient funds to pay all timely filed unsecured proofs of claims in full.
20 For that reason, the Trustee does not intend to further administer real property assets.

21 9. Given the foregoing, the Trustee has determined that there is likely no or little
22 realizable equity in the Calaveras Property, if sold as a whole. Further, the Trustee has
23 concluded that the Calaveras Property is not beneficial to the estate in that the Trustee will
24 not be administering it.

25 9. The Trustee has also concluded that the Calaveras Property could be
26 burdensome to the estate due to potential security and insurance costs, other potential
27 risks faced by the estate through continued ownership of the Calaveras Property, and the
28 possible negative tax consequences to the estate from a foreclosure of a secured

1 creditor's deed of trust against the Calaveras Property.

2 **Memorandum of Points and Authorities**

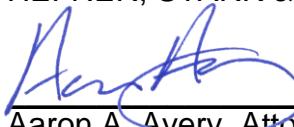
3 10. Pursuant to 11 U.S.C. § 554(a), after notice and a hearing, the Trustee " . . .
4 may abandon any property of the estate that is burdensome to the estate or that is of
5 inconsequential value and benefit to the estate."

6 **WHEREFORE**, the Trustee respectfully requests that the Court authorize and order
7 the abandonment of the estate's interest in the Calaveras Property.

8 Dated: April 6, 2021

HEFNER, STARK & MAROIS, LLP

9 By

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Aaron A. Avery, Attorneys for
11 GEOFFREY RICHARDS,
Chapter 7 Trustee

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